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Practitioner's Docket No. MET-041424C004

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: William D. Denison et al.

Application No.: 10/807,936

Art Unit: 2635

Filed: March 24, 2004

Examiner: Brian A. Zimmerman

For: ELECTRONIC ACCESS CONTROL DEVICE

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**REPLY BRIEF (37 C.F.R. § 1.193)**

This Reply Brief is in response to the Examiner's Answer, mailed on August 25, 2006. No fees or extensions of time are required because this Reply Brief is being mailed within two months (i.e., August 25, 2006) of the mailing date of the Examiner's Answer. For the following reasons and those reasons stated in the Appellants' Appeal Brief, but not reiterated here for brevity, Appellants request that all rejections be overturned and the application passed to issue.

Failure to Teach or Suggest All Limitations

The claims-at-issue are allowable because the prior art of record does not teach or suggest all limitations. Turning to the Examiner's Answer, the Examiner states that it appears the Appellants agree with the position that Lemelson teaches: "receiving an input code, comparing the input code to an access code and unlocking the lock if the input code matches the access code." *Examiner's Answer*, p. 5. Appellants respectfully assert that the Examiner's Answer fails to address the fact that the claims do not merely require "receiving an input code." Instead, the claims require processing an electromagnetic signal during an extended time period to obtain an input code. Lemelson does not teach

or suggest this limitation because Lemelson does not use any extended time periods. However, this shortcoming is not mentioned in the Examiner's Answer.

Similarly, the Examiner asserts that it appears the Appellants agree with the position that Stengel teaches the battery saving steps of the claims i.e., "deactivating the circuit for a first time, enabling the circuit for a second time, sensing an EM signal during the second time and enabling the circuit for an extended time if an EM signal is sensed during the second time to enable reception of additional data." *Examiner's Answer*, p. 5-6. However, once again, the Answer does not address the fact that the claims require processing the electromagnetic signal during an extended time period to obtain an input code for unlocking a device. Stengel fails to teach or suggest this limitation because Stengel does not pertain to obtaining input codes used for unlocking a lock. Therefore, the claims-at-issue are allowable because all limitations are not taught or suggested by the prior art of record.

#### Lack of Motivation to Combine

The claims-at-issue should be passed to issue because the prior art does not teach or suggest the desirability of the claimed combination. In the Examiner's Answer, it is asserted that a motivation is provided because Stengel teaches a method that saves power in a battery powered receiver, and Lemelson includes a receiver that is battery powered. *Examiner's Answer*, p. 6. However, Lemelson specifically teaches away from this motivation.

As stated in the MPEP, "[t]he totality of the prior art must be considered, and proceeding contrary to accepted wisdom in the art is evidence of nonobviousness." *MPEP* §2145(X)(D)(3) *citing In re Hedges*, 783 F.2d 1038, 228 USPQ 685 (Fed. Cir. 1986). Here, instead of saving power, Lemelson expressly teaches that another suitable power source (i.e., line current) should be sought instead of making attempts to conserve power. *Lemelson*, Col. 4, lns. 47-52. Moreover, nothing is disclosed in Stengel regarding the applicability of a battery saver to an unlocking device. Therefore, the claims-at-issue should be passed to issue because the prior art fails to provide a motivation to combine the references in the manner claimed.

Moreover, the prior art fails to teach or suggest the desirability of periodically searching for the presence of an unlocking device as claimed by the Appellants. In particular, Lemelson discloses a switch for activation upon the presence of a device containing coded information. *Lemelson*, Col. 5, lns. 49-66. However, the operation of this switch is substantially different from the claimed invention because the switch in Lemelson must be activated via a lever or actuator. *Lemelson*, Col. 5, lns. 53-56. In contrast, the claims-at-issue are generally directed to periodically enabling and disabling a circuit, irregardless of the actual presence of a device to activate a lock. Accordingly, Lemelson and Stengel fail to provide any motivation for designing an apparatus, as claimed by the Appellants, whereby battery power is conserved by means of periodically searching for the presence of an electromagnetic signal.

#### Claims Call for a Low Battery Indicator

In the Examiner's Answer, it is maintained that the claims do not call for a low battery indicator. This is incorrect. In particular, claims 33, 42, 51 and 60 specifically require a low battery detection circuit that measures a battery voltage.

#### Claims Call for a Two Current Solenoid

In the Examiner's Answer, it is asserted that the claims do not call for a two current solenoid. This also is incorrect. In particular, claims 34, 43, 52 and 61 require an electromechanical driver that provides a non-zero power output in a first state that is higher than the power provided in a second state.

#### Failings of the Admitted Prior Art

In the Examiner's Answer, it is asserted that claims 31, 40, 49 and 58 are unpatentable because the admitted prior art discusses the use of a keypad in a lock system. Moreover, claims 32, 41, 50 and 59 are unpatentable because the admitted prior art discusses the use of a keypad to program the memory of a lock system.

Applicants respectfully assert that the claims in this application are patentable because the admitted prior art fails to teach or suggest the unique invention as set forth in the claims. Stated another way, the claimed combinations are not shown or taught by the

prior art. The mere fact that elements of the invention can be found in the prior art does not render obvious a unique combination of elements. Most inventions are a combination of old elements.

References do not Inherently Teach or Suggest Reading and Writing of Codes

In the Examiner's Answer, it is maintained that the prior art references disclose codes that are "stored in memory and therefore inherently a step of writing the codes into memory existed somewhere during the manufacturing or set up of the system." However, Appellants assert that inherency requires that a teaching or suggestion necessarily flow from what is depicted in the references.

Here, the references do not indicate, or even suggest, the necessity of a communication port for sending an access code through a communication port and writing the access code into a memory as set forth in claims 35, 44, 53 and 62. Or a serial number as set forth in claims 36, 45, 54 and 63.

Also, the references do not indicate, or even suggest, the necessity of transmitting an access code through a communication port as set forth in claims 38, 47, 56 and 65. Or a serial number as set forth in claims 37, 46, 55 and 64. Accordingly, these dependent claims are allowable over the prior art of record because the limitations are not taught or suggested.

Conclusion

For the forgoing reasons and those reasons stated in the Appellants' Appeal Brief, but not reiterated here for brevity, Appellants request that all rejections be overturned and the application passed to issue.

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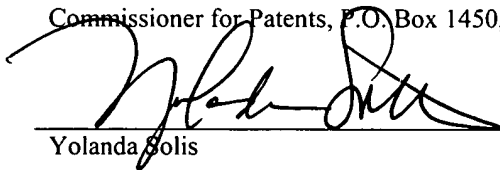
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